

TITLE 14. Fish and Game Commission

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 7071, 8587.1 and 8588 of the Fish and Game Code, and to implement, interpret or make specific sections 7056, 7071, 8585.5, 8587 and 8587.1 of said Code, proposes to amend sections 52.10, 150.06, and 150.16, Title 14, California Code of Regulations, relating to nearshore regional total allowable catches, trip limits and weekday closures.

Informative Digest/Policy Statement Overview

The proposed actions being considered by the Commission would institute three management changes that implement policy directives contained within the Commission approved Nearshore Fishery Management Plan. These include the following additions or changes to existing regulations:

- **Total Allowable Catch (TAC):** establishing regional Total Allowable Catch (TAC) levels to limit take within discrete geographic areas for cabezon, greenlings and sheephead (CGS) (Item 1, Option 1A and 1B below), or maintain statewide TACs (Item 1, Options 2A and 2B below), and re-apportion the existing allocation of these resources between sport and commercial fisheries;
- **CGS Trip Limits/Weekday Closure:** instituting cumulative trip limits to spread allowable commercial catches of CGS through a longer fishing season (Item 2 below) and/or modifying existing weekday closures for the cabezon and greenling commercial fisheries (Item 3 below);
- **Federal Trip Limits for Individuals:** establishing a requirement that cumulative trip limit values noticed in the Federal Register for shallow and deeper nearshore rockfish and California scorpionfish would apply to individual California commercial licensees in order to slow catch rates. The federally-defined trip limits which are vessel-based would also continue to apply (Item 4 below).

Existing regulations have established statewide harvest limits (in pounds) for cabezon, greenlings, and sheephead and identify how that poundage is allocated to the recreational and commercial fishery. Modification to these regulations are proposed in item 1 below.

Item 1, Total Allowable Catch (TAC)

Item 1, Option 1A: would establish four commercial TACs (one per region) and one statewide recreational TAC based on the currently used allowable catch ratios between sport and commercial fisheries established in Section 52.10, Title 14, CCR.

The total statewide allowable catch of cabezon would be 194,100 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	8,000 pounds	91,600 pounds
North-Central Coast Region	20,100 pounds	
South-Central Coast Region	61,700 pounds	
South Coast Region	12,700 pounds	

The total statewide allowable catch of greenlings would be 37,800 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	1,800 pounds	24,900 pounds
North-Central Coast Region	5,600 pounds	
South-Central Coast Region	5,300 pounds	
South Coast Region	200 or [0-200] pounds	

The total statewide allowable catch of sheephead would be 205,600 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	0 pounds	124,500 pounds
North-Central Coast Region	100 or [0-100] pounds	
South-Central Coast Region	1,500 pounds	
South Coast Region	79,500 pounds	

Item 1, Option 1B: would establish four commercial TACs (one per region) and one statewide recreational TAC based on the historical ratio of catches during 1983-1989 and 1993-1999.

The total statewide allowable catch of cabezon would be 194,100 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	5,500 pounds	118,300 pounds
North-Central Coast Region	16,100 pounds	
South-Central Coast Region	49,200 pounds	
South Coast Region	5,000 pounds	

The total statewide allowable catch of greenlings would be 37,700 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	1,300 pounds	34,200 pounds
North-Central Coast Region	1,100 pounds	
South-Central Coast Region	1000 pounds	
South Coast Region	100 or [0-100] pounds	

The total statewide allowable catch of sheephead would be 205,600 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	0 pounds	126,100 pounds
North-Central Coast Region	100 <i>or</i> [0-100] pounds	
South-Central Coast Region	2,100 pounds	
South Coast Region	77,300 pounds	

Item 1, Option 2A: would maintain the status-quo of one statewide commercial TAC and one statewide recreational TAC based on the currently used allowable catch ratios between sport and commercial fisheries established in Section 52.10, Title 14, CCR, but updates the values to reflect improvements in analysis of catch data.

- The total statewide allowable catch of cabezon would be 194,000 pounds, allocated 102,400 pounds to the commercial fishery and 91,600 pounds to the recreational fishery.
- The total statewide allowable catch of greenlings would be 37,600 pounds, allocated 12,700 pounds to the commercial fishery and 24,900 pounds to the recreational fishery.
- The total statewide allowable catch of sheephead would be 205,500 pounds, with 81,000 pounds allocated to the commercial fishery and 124,500 pounds to the recreational fishery.

Item 1, Option 2B: would maintain the status-quo of one statewide commercial TAC and one statewide recreational TAC based on the historical ratio of catches during 1983-1989 and 1993-1999, but updates the values to reflect improvements in analysis of catch data.

- The total statewide allowable catch of cabezon would be 193,900 pounds, with 75,600 pounds allocated to the commercial fishery and 118,300 pounds to the recreational fishery.
- The total statewide allowable catch of greenlings would be 37,600 pounds, with 3,400 pounds allocated to the commercial fishery and 34,200 pounds to the recreational fishery.
- The statewide allowable catch of sheephead would be 205,500 pounds, with 79,400 pounds allocated to the commercial fishery and 126,100 pounds to the recreational fishery.

Existing emergency regulations which will expire May 1, 2003 establish a two-month cumulative trip limit for the commercial fishery for each species in the CGS complex for the January through February 2003 time period. Additional regulations are proposed in item 2 below.

Item 2, CGS Trip Limits

Item 2, Option 1: would establish commercial trip limits that are the same statewide for each 2-month period that the fishery is open at volumes selected for each species from the range of values provided.

- (A) Cabezon: Not more than [200 -2,000] pounds per individual per two-month limit period
- (B) Sheephead: Not more than [200 -2,000] pounds per individual per two-month limit period
- (C) Greenlings: Not more than [25 - 400] pounds per individual per two-month limit period

Item 2, Option 2: would establish commercial trip limits that are the same statewide at a set value per landing period with catch volume equivalent to a multiplier of federal trip limits for shallow nearshore rockfish.

- (A) Cabezon: The pounds per individual per two-month limit period is equal to the federal trip limit for shallow nearshore rockfish for waters south of 40 degrees, 10 minutes N. latitude.
- (B) Sheephead: The pounds per individual per two-month limit period is equal to two times the federal trip limit for shallow nearshore rockfish for waters south of 40 degrees, 10 minutes N. latitude.
- (C) Greenlings: The pounds per individual per two-month limit period is equal to one-quarter of the federal trip limit for shallow nearshore rockfish for waters south of 40 degrees, 10 minutes N. latitude.

Item 2, Option 3: would establish commercial trip limits that are the same statewide but allow catch volume to differ between monthly periods, based on constituent input, from the range of values below:

	Cabezon	Sheephead	Greenlings
January-February	[0-8,000] pounds	[0-8,000] pounds	[0-1,000] pounds
March-April	0 pounds	0 pounds	0 pounds
May-June	[0-8,000] pounds	[0-8,000] pounds	[0-1,000] pounds
July-August	[0-8,000] pounds	[0-8,000] pounds	[0-1,000] pounds
September-October	[0-8,000] pounds	[0-8,000] pounds	[0-1,000] pounds
November-December	[0-8,000] pounds	[0-8,000] pounds	[0-1,000] pounds

Item 2, Option 4: would establish trip limits which differ for each of the four management regions throughout the state, and differ between each landing period for the periods the fishery is open, which allows for trip limits to be set in accordance with regional TACs (coupled with Option 1A and 1B above), and based on constituent input. Trip limits ranging from 0-8000 pounds of cabezon, dependent on region and two-month limit period, are proposed. Trip limits ranging from 0-8000 pounds of sheephead, dependent on region and two-month limit period, are proposed. Trip limits ranging from 0-500 pounds of greenlings, dependent on region and two-month limit period, are proposed.

Existing regulations addressed under item 3 below established a prohibition on the commercial take of cabezon, kelp greenling, and rock greenling from Thursday through Sunday, inclusive.

Item 3, Weekday Closures

Item 3, Option 1: would eliminate the provision which prohibits the commercial take of cabezon, kelp greenling, and rock greenling from Thursday through Sunday;

Item 3, Option 2: would change the language of the regulation to prohibit possession as well as take of these species Thursday through Sunday; and/or

Item 3, Option 3: would change the regulation to include prohibiting the commercial take and possession of all nearshore fish stocks as defined in Section 1.90 from Thursday through Sunday.

No regulations addressed under item 4 below exist. New regulations are proposed in item 4 below.

Item 4, Federal Trip Limits for Individuals

Item 4: would establish a requirement that cumulative trip limit values noticed in the Federal Register for shallow and deeper nearshore rockfish and for California scorpionfish would apply to individual California commercial licensees in order to slow catch rates. The federally defined trip limits which are vessel-based would also continue to apply.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Board of Supervisors' Chambers, Administration Building, 2800 W. Burrel, Visalia, California, on Friday, April 4, 2003 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Riverside Marriott, 3400 Market Street, Riverside, California, on Thursday, May 8, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested that written comments be submitted on or before May 8, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than May 8, 2003 at the hearing in Riverside, CA. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Sherrie Koell at the preceding address or phone number. Fred Wendell, Nearshore Ecosystem Coordinator, Department of Fish and Game, phone (805) 772-1714, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at http://www.dfg.ca.gov/fg_comm

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The Commission has made an initial determination that the amendment of these regulations may have a significant statewide adverse economic impact on approximately 184 businesses, primarily nearshore commercial fishermen but including some fish processors, distributors, baitshops, markets and sportfishing services providers, but not on the ability of California businesses to compete with businesses in other states. The Commission has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit alternative proposals. Submissions may include the following considerations:

- (i) the establishment of differing compliance or reporting requirements or timetables which take into account the resources available to businesses;
- (ii) consolidation or simplification of compliance and reporting requirements for businesses;
- (iii) the use of performance standards rather than prescriptive standards; or
- (iv) exemption or partial exemption from the regulatory requirements for business.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Each of the three nearshore fishery management changes being considered would have different impacts, ranging from slightly increased benefits to nominal losses in production, depending on which option is selected. None of the options would create new direct costs or reporting requirements to individuals or businesses. Contact the Agency representative named herein to receive a complete analysis of the impacts.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Contact the Agency representative named herein to receive a complete analysis of the impacts.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

John M. Duffy
Assistant Executive Director

Dated: March 11, 2003